

Message Text

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ACTION EUR-12

INFO OCT-01 IO-13 ISO-00 EURE-00 AID-05 CEA-01 CIAE-00
COME-00 EB-07 FRB-03 INR-07 NSAE-00 CIEP-01 SP-02
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E.O. 11652: N/A
TAGS: ETRD, EMIN, EEC, FR
SUBJECT: FRENCH IMPORT RESTRAINT ON PHOSPHATE FERTILIZERS

REF: (A) PARIS 1607, (B) PARIS 113, (C) EC BRUSSELS 394

1. BELGIAN COMPANY, DEMUFERT, HAS ALSO BEEN IN TOUCH WITH USEC AND GAVE US SAME ACCOUNT AS REF A WITH ADDITIONAL INFORMATION THAT THE SHIP, KORSOMOLETS, NOW CARRYING 8000 TONS, IS DUE TO ARRIVE AT BORDEAUX ON FRIDAY.

2. A SENIOR COMMISSION OFFICIAL, THE DIRECTOR GENERAL IN CHARGE OF INTERNAL MARKET MATTERS, FERNAND BRAUN, HAS ALREADY SENT DEMUFERT A LETTER SUPPORTING THE LATTER'S CASE. INFORMAL MISSION TRANSLATION OF LETTER EXCERPT FOLLOWS:

QUOTE ON THE BASIS OF THE INFORMATION YOU HAVE GIVEN MY DEPARTMENT, THE VISA REQUIREMENT ON IMPORT DECLARATIONS AND, EVEN MORE SO, THE DELAY IN VISA DELIVERANCE OR ITS REFUSAL, HARDLY SEEMS COMPATIBLE WITH THE PROVISIONS OF COMMUNITY
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LAW SINCE ARTICLE 30 OF THE EEC TREATY PROHIBITS, BETWEEN MEMBER STATES OF THE COMMUNITY, ALL MEASURES HAVING EQUIVALENT EFFECT TO QUANTITATIVE RESTRICTIONS. THE EUROPEAN COURT OF JUSTICE HAS ALREADY HAD THE OPPORTUNITY TO SPECIFY THAT THESE PROVISIONS PROHIBIT APPLICATION, IN INTRA-COMMUNITY RELATIONS, OF NATIONAL LEGISLATION WHICH WOULD REQUIRE EVEN PURELY FORMAL IMPORT LICENSES-- OR ANY OTHER SIMILAR PROCEDURE.

UNQUOTE

3. OTHER INTERNATL MARKET OFFICIALS HAVE TOLD US THAT THEY WERE EXAMINING THE QUESTION AND THAT IF THE FRENCH WERE UNCOOPERATIVE THE COMMISSION COULD HAND DOWN AN OPINION AGAINST THE FRENCH AND ULTIMATELY TAKE THE MATTER TO THE EUROPEAN COURT OF JUSTICE. THEY TOLD US THAT IN VIEW OF THE IMMINENT ARRIVAL OF THE BOAT THEY WOULD CONTACT THE FRENCH GOVERNMENT IN A HURRY. THESE OFFICIALS FELT THAT THE FRENCH GOVERNMENT HAD NO QUANTITATIVE RESTRICTIONS ON DIAMONIUM PHOSPHATE IN EFFECT ON JANUARY 1, 1970--A SITUATION WHICH WOULD HAVE PERMITTED THEM TO INVOKE EEC ARTICLE 115 ON THE RIGHT TO PROTECT AGAINST DEFLECTION OF TRADE. HOWEVER, FOR IMMEDIATE RESULTES, THEY STRONGLY RECOMMENDED THAT DEMUFERT GET INTO QUICK TOUCH WITH THE FRENCH COURTS IF IT RUNS INTO TROUBLE, SINCE THE EC PROCEDURE IS ADMITTEDLY A LONG ONE. WE CONVEYED THIS INFORMATION TO DEMUFERT.

4. DG-I OFFICIAL (LEORKE) TOLD MISSION OFFICER JAN 19 THAT FRENCH MAY BE PRACTICING "WAR OF NERVES" ON THIS ISSUE IN HOPES THAT CONTINUED DIFFICULTIES AND POSSIBILITY OF GOF ACTION WILL LEAD US EXPORTERS TO BE DISCREET IN TERMS OF QUANTITY AND PRICE OF EXPORTS. LOERKE AGREED WITH OTHER EC OFFICIALS (PARA 2 AND 3 ABOVE) THAT FRENCH CLEARLY HAVE NO LEGAL BASIS ON WHICH TO TAKE UNILATERAL ACTION. HE SAID THAT HE PLANS TO DEBRIEF MISSION FOLLOWING JAN 20 ARTICLE 113 WORKING GROUP MEETING. HINTON

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